

EXHIBIT 12

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August 25, 2023

VIA ELECTRONIC MAIL

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Re: *U.S. Bank, National Association, et al v. The Charitable Donor Advised Fund, L.P., et al;*
Cause No. 1:21-cv-11059 (GHW) (SDNY)

Dear Roger:

I write on behalf of Plaintiffs Acis Capital Management, L.P. (“ACM”) and Joshua N. Terry (“Mr. Terry” and together with ACM, the “ACM Parties”) further to the parties’ August 24, 2023 meet-and-confer concerning the ACM Parties’ responses and objections to the DAF Parties Second Set of Requests for Production (“Second RFPs”).

As discussed during the meet-and-confer, the vast majority of the DAF Parties’ Second RFPs are duplicative of the DAF Parties’ First Set of Requests for Production (“First RFPs”), which the DAF Parties served on April 14, 2023, and to which the ACM Parties timely responded and objected on May 15, 2023 (the “R&Os”). The ACM Parties substantially completed production of documents responsive to the First RFPs in mid-June, nearly two months ago. The DAF Parties have not challenged those R&Os. Further, you were unable to articulate during the meet-and-confer what information the Second RFPs seek that was not already captured by the First RFPs.

For the avoidance of doubt, and to avoid burdening Judge Woods with unnecessary motion practice, the ACM Parties further specify below their position on each Second RFP, including which First RFPs the Second RFPs are duplicative of, and the status of the ACM Parties’ production of documents responsive to the First and Second RFPs.

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ABU DHABI | ATLANTA | AUSTIN | BEIJING | BERLIN | BOSTON | BRUSSELS | CHICAGO | DALLAS | DOHA | HAMBURG | HONG KONG | HOUSTON | LONDON | LOS ANGELES | MANNHEIM | MIAMI | MUNICH | NEUILLY-LA DEFENSE | NEW YORK | PARIS | PERTH | RIYADH | SALT LAKE CITY | SAN FRANCISCO | SEATTLE | SHANGHAI | SILICON VALLEY | STUTTGART | SYDNEY | TOKYO | WASHINGTON, DC | ZURICH

- Second RFP 1: Except for subpart g, this RFP is duplicative of the First RFPs: subpart a is duplicative of First RFPs 3-7 and 29; subparts b and c are duplicative of First RFPs 8, 11, and 29; subpart d is duplicative of First RFPs 3-6 and 29; subpart e is duplicative of First RFPs 34-37; subpart f is duplicative of First RFPs 3-9 and 47; subpart h is duplicative of First RFPs 14-17 and 24; and subpart i is duplicative of First RFPs 18-21 and 24. The ACM Parties refer the DAF Parties to their R&Os to those First RFPs, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. The ACM Parties have completed production of such responsive, non-privileged documents. The ACM Parties further agreed to produce conduct a reasonable search for and produce non-privileged documents responsive to Second RFP 1, subpart g. The ACM Parties confirm that they will not be withholding responsive documents identified in this reasonable search on the basis of their specific or general objections.
- Second RFP 2: This RFP is duplicative of First RFPs 30-33, and the ACM Parties refer the DAF Parties to their R&Os to those First RFPs, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. The ACM Parties have completed production of such responsive, non-privileged documents. To the extent that RFP 2 seeks information different than that covered by First RFPs 30-33, please identify the additional information sought.
- Second RFP 3: This RFP is duplicative of First RFPs 30-33, and the ACM Parties refer the DAF Parties to their R&Os to those First RFPs, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. The ACM Parties have completed production of such responsive, non-privileged documents. To the extent that RFP 3 seeks information different than that covered by First RFPs 30-33, please identify the additional information sought.
- Second RFP 4: This RFP is duplicative of First RFPs 30-33, and the ACM Parties refer the DAF Parties to their R&Os to those First RFPs, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. The ACM Parties have completed production of such responsive, non-privileged documents. To the extent that RFP 4 seeks information different than that covered by First RFPs 30-33, please identify the additional information sought.
- Second RFP 5: This RFP is duplicative of First RFPs 30-33, and the ACM Parties refer the DAF Parties to their R&Os to those First RFPs, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. The ACM Parties have completed production of such responsive, non-privileged documents. To the extent that RFP 5 seeks information different than that covered by First RFPs 30-33, please identify the additional information sought.

- Second RFP 6: This RFP is duplicative of First RFPs 30-33, and the ACM Parties refer the DAF Parties to their R&Os to those First RFPs, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. The ACM Parties have completed production of such responsive, non-privileged documents. To the extent that RFP 6 seeks information different than that covered by First RFPs 30-33, please identify the additional information sought.
- Second RFP 7: This RFP is duplicative of First RFPs 35-37, and the ACM Parties refer the DAF Parties to their R&Os to those First RFPs, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. The ACM Parties have completed production of such responsive, non-privileged documents. To the extent that RFP 7 seeks information different than that covered by First RFPs 35-37, please identify the additional information sought.
- Second RFP 8: This RFP is duplicative of First RFPs 3-6, and the ACM Parties refer the DAF Parties to their R&Os to those First RFPs, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. The ACM Parties have completed production of such responsive, non-privileged documents. To the extent that RFP 8 seeks information different than that covered by First RFPs 3-6, please identify the additional information sought.
- Second RFP 9: This RFP is duplicative of First RFPs 3-6, and the ACM Parties refer the DAF Parties to their R&Os to those First RFPs, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. The ACM Parties have completed production of such responsive, non-privileged documents. To the extent that RFP 9 seeks information different than that covered by First RFPs 3-6, please identify the additional information sought.
- Second RFP 10: This RFP is duplicative of First RFPs 11-12, and the ACM Parties refer the DAF Parties to their R&Os to those First RFPs, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. The ACM Parties have completed production of such responsive, non-privileged documents. To the extent that RFP 10 seeks information different than that covered by First RFPs 11-12, please identify the additional information sought.
- Second RFP 11: The ACM Parties agreed to conduct a reasonable search for and produce non-privileged documents responsive to this RFP. The ACM Parties confirm that they will not be withholding responsive documents identified in this reasonable search on the basis of their specific or general objections.
- Second RFP 12: The ACM Parties agreed to conduct a reasonable search for and produce non-privileged documents responsive to this RFP. The ACM Parties

confirm that they will not be withholding responsive documents identified in this reasonable search on the basis of their specific or general objections.

- Second RFP 13: This RFP is duplicative of First RFPs 35-37 and 50-51, and the ACM Parties refer the DAF Parties to their R&Os to those First RFPs, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. To the extent this RFP seeks any new information not already captured by First RFPs 35-37 and 50-51, the ACM Parties stand on their objections to this RFP.
- Second RFP 14: This RFP is duplicative of, *inter alia*, First RFPs 11-12, and the ACM Parties refer the DAF Parties to their R&Os to those First RFPs, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. To the extent this RFP seeks any new information not already captured by First RFPs 11-12 and other First RFPs, the ACM Parties stand on their objections to this RFP.
- Second RFP 15: This RFP is duplicative of First RFP 19, and the ACM Parties refer the DAF Parties to their R&Os to that First RFP, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. The ACM Parties have completed production of such responsive, non-privileged documents. To the extent that RFP 15 seeks information different than that covered by First RFP 19, please identify the additional information sought.
- Second RFP 16: This RFP is duplicative of First RFP 19, and the ACM Parties refer the DAF Parties to their R&Os to that First RFP, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. The ACM Parties have completed production of such responsive, non-privileged documents. To the extent that RFP 16 seeks information different than that covered by First RFP 19, please identify the additional information sought.
- Second RFP 17: This RFP is duplicative of First RFP 1, and the ACM Parties refer the DAF Parties to their R&Os to that First RFP, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. The ACM Parties have completed production of such responsive, non-privileged documents. To the extent that RFP 17 seeks information different than that covered by First RFP 1, please identify the additional information sought.
- Second RFP 18: This RFP is duplicative of First RFP 12, and the ACM Parties refer the DAF Parties to their R&Os to that First RFP, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. The ACM Parties have completed production of such responsive, non-privileged documents. To the extent that RFP 18 seeks information different than that covered by First RFP 12, please identify the additional information sought.

- Second RFP 19: This RFP is duplicative of First RFPs 11-12 and 53-56, and the ACM Parties refer the DAF Parties to their R&Os to those First RFPs, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. The ACM Parties have completed production of such responsive, non-privileged documents. To the extent that RFP 19 seeks information different than that covered by First RFPs 11-12 and 53-56, please identify the additional information sought.
- Second RFP 20: This RFP is duplicative of First RFPs 10-12, and the ACM Parties refer the DAF Parties to their R&Os to those First RFPs, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. The ACM Parties have completed production of such responsive, non-privileged documents. To the extent this RFP seeks any new information not already captured by First RFPs 10-12 and other First RFPs, the ACM Parties stand on their objections to this RFP.
- Second RFP 21: This RFP is duplicative of First RFPs 35-37, and the ACM Parties refer the DAF Parties to their R&Os to those First RFPs, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. The ACM Parties have completed production of such responsive, non-privileged documents. To the extent that RFP 21 seeks information different than that covered by First RFPs 35-37, please identify the additional information sought.
- Second RFP 22: This RFP is duplicative of First RFPs 3-6, and the ACM Parties refer the DAF Parties to their R&Os to those First RFPs, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. The ACM Parties have completed production of such responsive, non-privileged documents. To the extent that RFP 22 seeks information different than that covered by First RFPs 3-6, please identify the additional information sought.
- Second RFP 23: This RFP is duplicative of NexPoint's First RFP 63, and the ACM Parties refer the DAF Parties to their R&Os to that RFP, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. The ACM Parties have completed production of such responsive, non-privileged documents. To the extent that RFP 23 seeks information different than that covered by First RFP 63, please identify the additional information sought.
- Second RFP 24: This RFP is duplicative of First RFPs 30-33, and the ACM Parties refer the DAF Parties to their R&Os to those First RFPs, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. The ACM Parties have completed production of such responsive, non-privileged documents. To the extent that RFP 24 seeks information different than that covered by First RFPs 30-33, please identify the additional information sought.

- Second RFP 25: This RFP is duplicative of NexPoint's First RFP 48, and the ACM Parties refer the DAF Parties to their R&Os to that RFP, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents covering Acis CLO 6. The ACM Parties have completed production of such responsive, non-privileged documents. To the extent that RFP 25 seeks information different than that covered by First RFP 48, please identify the additional information sought.
- Second RFP 26: This RFP is duplicative of numerous First RFPs, including, *inter alia*, First RFPs 32-37, and the ACM Parties refer the DAF Parties to their R&Os to those First RFPs, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. The ACM Parties have completed production of such responsive, non-privileged documents. To the extent that RFP 26 seeks information different than that covered by First RFPs 32-37, please identify the additional information sought.
- Second RFP 27: This RFP is duplicative of, *inter alia*, First RFPs 15-17, 19-21, and 35-37, and the ACM Parties refer the DAF Parties to their R&Os to those First RFPs, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. The ACM Parties have completed production of such responsive, non-privileged documents. To the extent this RFP seeks any new information not already captured by First RFPs 15-17, 19-21, 35-37, and other First RFPs, the ACM Parties stand on their objections to this RFP.
- Second RFP 28: The ACM Parties stand on their objections to this RFP.
- Second RFP 29: This RFP is duplicative of, *inter alia*, First RFPs 35-37, 50-51, and the ACM Parties refer the DAF Parties to their R&Os to those First RFPs, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. The ACM Parties have completed production of such responsive, non-privileged documents. To the extent that RFP 29 seeks information different than that covered by First RFPs 35-37 and 50-51, please identify the additional information sought.
- Second RFP 30: This RFP is duplicative of First RFPs 30-37, and the ACM Parties refer the DAF Parties to their R&Os to those First RFPs, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. The ACM Parties have completed production of such responsive, non-privileged documents. To the extent that RFP 30 seeks information different than that covered by First RFPs 30-37, please identify the additional information sought.
- Second RFP 31: This RFP is duplicative of First RFPs 35-37, and the ACM Parties refer the DAF Parties to their R&Os to those First RFPs, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. The ACM Parties have completed production of such responsive, non-

privileged documents. To the extent that RFP 31 seeks information different than that covered by First RFPs 35-37, please identify the additional information sought.

- Second RFP 32: The ACM Parties stand on their objections to this RFP.
- Second RFP 33: Except for subpart c, this RFP is duplicative of the First RFPs: subparts a and b are duplicative of First RFPs 3-9 and 47; subpart d is duplicative of First RFPs 11-12, subpart e is duplicative of First RFP 12; subpart f is duplicative of First RFPs 53-54; subpart g is duplicative of First RFPs 55-56; subpart h is duplicative of First RFPs 14-17 and 24; subpart i is duplicative of First RFPs 18-21 and 24; subpart j is duplicative of, *inter alia*, First RFPs 3-9, 14-21, 24, and 47; subpart k is duplicative of, *inter alia*, First RFPs 1-6; subpart l is duplicative of, *inter alia*, First RFPs 10-12; subpart m is duplicative of NexPoint RFPs 19, 21, 27, 32-33, 41, 47-48, and 60-61; subpart n is duplicative of, *inter alia*, First RFP 47 and NexPoint RFP 29; subpart o is duplicative of, *inter alia*, First RFPs 1-6; and subpart p is duplicative of, *inter alia*, First RFPs 3, 5, and 14-27. The ACM Parties refer the DAF Parties to their R&Os to those First RFPs, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. The ACM Parties have completed production of such responsive, non-privileged documents. The ACM Parties further agreed to conduct a reasonable search for and produce non-privileged documents responsive to Second RFP 1, subpart c. To the extent this RFP seeks any new information not already captured by subpart c or the First RFPs, the ACM Parties stand on their objections to this RFP.
- Second RFP 34: Except for subpart c, this RFP is duplicative of the First RFPs: subparts a and b are duplicative of First RFPs 3-9 and 47; subpart d is duplicative of First RFPs 11-12, subpart e is duplicative of First RFP 12; subpart f is duplicative of First RFPs 53-54; subpart g is duplicative of First RFPs 55-56; subpart h is duplicative of First RFPs 14-17 and 24; subpart i is duplicative of First RFPs 18-21 and 24; subpart j is duplicative of, *inter alia*, First RFPs 3-9, 14-21, 24, and 47; subpart k is duplicative of, *inter alia*, First RFPs 1-6; subpart l is duplicative of, *inter alia*, First RFPs 10-12; subpart m is duplicative of NexPoint RFPs 19, 21, 27, 32-33, 41, 47-48, and 60-61; subpart n is duplicative of, *inter alia*, First RFP 47 and NexPoint RFP 29; subpart o is duplicative of, *inter alia*, First RFPs 1-6; and subpart p is duplicative of, *inter alia*, First RFPs 3, 5, and 14-27. The ACM Parties refer the DAF Parties to their R&Os to those First RFPs, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. The ACM Parties have completed production of such responsive, non-privileged documents. The ACM Parties further agreed to conduct a reasonable search for and produce non-privileged documents responsive to Second RFP 1, subpart c. To the extent this RFP seeks any new information not already captured by subpart c or the First RFPs, the ACM Parties stand on their objections to this RFP.

- Second RFP 35: Except for subpart c, this RFP is duplicative of the First RFPs: subparts a and b are duplicative of First RFPs 3-9 and 47; subpart d is duplicative of First RFPs 11-12, subpart e is duplicative of First RFP 12; subpart f is duplicative of First RFPs 53-54; subpart g is duplicative of First RFPs 55-56; subpart h is duplicative of First RFPs 14-17 and 24; subpart i is duplicative of First RFPs 18-21 and 24; subpart j is duplicative of, *inter alia*, First RFPs 3-9, 14-21, 24, and 47; subpart k is duplicative of, *inter alia*, First RFPs 1-6; subpart l is duplicative of, *inter alia*, First RFPs 10-12; subpart m is duplicative of NexPoint RFPs 19, 21, 27, 32-33, 41, 47-48, and 60-61; subpart n is duplicative of, *inter alia*, First RFP 47 and NexPoint RFP 29; subpart o is duplicative of, *inter alia*, First RFPs 1-6; and subpart p is duplicative of, *inter alia*, First RFPs 3, 5, and 14-27. The ACM Parties refer the DAF Parties to their R&Os to those First RFPs, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. The ACM Parties have completed production of such responsive, non-privileged documents. The ACM Parties further agreed to conduct a reasonable search for and produce non-privileged documents responsive to Second RFP 1, subpart c. To the extent this RFP seeks any new information not already captured by subpart c or the First RFPs, the ACM Parties stand on their objections to this RFP.
- Second RFP 36: The ACM Parties agree to produce non-privileged, responsive documents responsive to this RFP that are in its possession, custody, and control and were not already produced, if any, that can be located after a reasonable search.
- Second RFP 37: The ACM Parties agree to produce non-privileged, responsive documents responsive to this RFP that are in its possession, custody, and control and were not already produced, if any, that can be located after a reasonable search.
- Second RFP 38: The ACM Parties agree to produce non-privileged, responsive documents responsive to this RFP that are in its possession, custody, and control and were not already produced, if any, that can be located after a reasonable search.
- Second RFP 39: The ACM Parties agree to produce non-privileged, responsive documents responsive to this RFP that are in its possession, custody, and control and were not already produced, if any, that can be located after a reasonable search.
- Second RFP 40: The ACM Parties agree to produce non-privileged, responsive documents responsive to this RFP that are in its possession, custody, and control and were not already produced, if any, that can be located after a reasonable search.
- Second RFP 41 (Terry): The ACM Parties stand on their objections to this RFP.
- Second RFP 41(ACM) / 42 (Terry): The ACM Parties stand on their objections to this RFP.

- Second RFPs 42 (ACM) / 43 (Terry): The ACM Parties stand on their objections to this RFP.
- Second RFPs 43 (ACM) / 44 (Terry): The ACM Parties stand on their objections to this RFP.
- Second RFP 44 (ACM) / 45 (Terry): Subpart c of this RFP is duplicative of, *inter alia*, First RFPs 8-12, 15-16, 19, 22, 26, 28, 42, 53-56, and the ACM Parties refer the DAF Parties to their R&Os to those First RFPs, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. The ACM Parties have completed production of such responsive, non-privileged documents. The ACM Parties stand on their objections to subparts a and b of Second RFP 44 (ACM)/45 (Terry).
- Second RFP 45 (ACM) / 46 (Terry): Subpart c of this RFP is duplicative of, *inter alia*, First RFPs 8-13, 15-16, 19, 21-22, 25, 27, 41-43, and 53-56, and the ACM Parties refer the DAF Parties to their R&Os to those First RFPs, in which the ACM Parties agreed to conduct a reasonable search and produce responsive, non-privileged documents. The ACM Parties have completed production of such responsive, non-privileged documents. The ACM Parties stand on their objections to subparts a and b of Second RFP 45 (ACM)/46 (Terry).

The ACM Parties expect to substantially complete production of responsive, non-privileged documents, if any, in response to Second RFPs 1(g), 11-12, 33(c), 34(c), and 35(c) by Wednesday, August 30.

Sincerely,

/s/ *Blair Adams*

Blair Adams

cc: Counsel of Record